

**Internal Revenue Service
P.O. Box 2508
Cincinnati, OH 45201**

Department of the Treasury

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Release Date: 11/9/2012

Employer Identification Number:

Date: August 14, 2012

Contact Person - ID Number:

Contact Telephone Number:

UIL 4945.04-04

LEGEND

X= Employer

t= \$amount

y= \$amount

Dear

We have considered your request for advance approval of your employer-related scholarship program under section 4945(g)(1) of the Internal Revenue Code, dated January 23, 2012.

Our records indicate that you were recognized as exempt from federal income tax under section 501(c)(3) of the Code and that you are classified as a private foundation as defined in section 509(a).

Your letter indicates that you wish to grant scholarships to be used for educational purposes at an educational institution that normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where the educational activities are carried on.

Eligible applicants will be graduating high school students who are X employees or children of full time X employees and retired employees. Children of X employees include child, step child, foster child, or X employee must be guardian or student must be a dependent of employee. You will advertise the scholarship program in X's website and handbook.

You indicated that you will only grant one scholarship per year. If no individual meets the requirements of the application or the independent committee does not approve of any of the applications, no grant will be awarded that year. Grant approval will have no connection to employee position, salary, wage, performance, or continuation of employment.

The scholarship is designed to grant \$t dollars per year \$y dollars per semester) for four years. The recipient will be required to remain a full time college student and maintain a 3.0 GPA all four years.

Applications will include: 1) combined gross household income before taxes; 2) a list of activities both inside and outside of school, including work experience; 3) a one paragraph answer to the question "Why is college important to you?"; 4) a one to three page essay "Have you had adversity in your life and how did you handle it?"; 5) High school transcript; 6) High school GPA (3.0 average); 7) acceptance letter from U.S. college of choice; and 8) two letters of recommendation.

The selection committee will consist of three independent individuals. They are neither your employees nor employees of X. The committee will be comprised of knowledgeable individuals who have professional experience in either the teaching field or the health and human services field. Your current selection committee is comprised of a special education teacher at a high school, a former teacher, and a former counselor.

None of the members of the selection committee or their relatives; your officers, directors, or their relatives; or substantial contributors or their relatives are eligible for scholarships. You will grant scholarships which will not provide any direct or indirect benefit to any of your officers or directors or members of their families. You will not award scholarships on the basis of nationality, religion or ethnic origin.

Scholarship recipients will be identified by the selection committee based on prior academic performance, performance on tests designed to measure ability and aptitude for higher education, community and extracurricular involvement, financial need, and written essay. Transcripts and test scores will be examined to determine prior academic performance as well as ability and aptitude for higher education. Gross household income before taxes will be considered. However, there is not a specific level of income that qualifies candidates. Should multiple candidates have similar ratings in all categories other than income, it is likely that the one with the lowest income will be selected. The scholarship will be awarded solely in the order recommended by the selection committee.

The scholarship funds will be sent directly to the institution the recipient is attending to ensure it is applied to qualifying costs.

In order to continue to receive the scholarship for four years, the recipient must turn in transcripts after each semester to verify that a 3.0 GPA is maintained. An invoice from the educational institution will be required as well as the recipient's registration of classes for the next semester. The invoice must indicate that the recipient continues to be enrolled full time. If the recipient is not in good academic standing, the remaining scholarship will be revoked. The scholarship can not be renewed beyond the initial four year period awarded.

The scholarship is not contingent on employment with X. Should the employee terminate with X, the grant will continue so long as the recipient maintains the 3.0 GPA and remains a full time student.

You agree to maintain records that include the following:

- (i) Information used to evaluate the qualification of potential grantees;
- (ii) Identification of the grantees (including any relationship of any grantee to the private foundation);

- (iii) The amount and purpose of each grant; and
- (iv) All grantee reports and other follow-up data obtained in administering the private foundation's grant program.

Sections 4945(a) and (b) of the Code impose certain excise taxes on "taxable expenditures" made by a private foundation.

Section 4945(d)(3) of the Code provides that the term "taxable expenditure" means any amount paid or incurred by a private foundation as a grant to an individual for travel, study, or other similar purposes by such individual, unless such grant satisfies the requirements of subsection (g).

Section 4945(g) of the Code provides that section 4945(d)(3) shall not apply to individual grants awarded on an objective and nondiscriminatory basis pursuant to a procedure approved in advance if it is demonstrated that:

- (1) The grant constitutes a scholarship or fellowship grant which is subject to the provisions of section 117(a) (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) and is to be used for study at an educational organization described in section 170(b)(1)(A)(ii);
- (2) The grant constitutes a prize or award which is subject to the provisions of section 74(b), if the recipient of such prize or award is selected from the general public, or
- (3) The purpose of the grant is to achieve a specific objective,
 - a. produce a report or similar product, or improve or enhance a
 - b. literary, artistic, musical, scientific, teaching, or other
 - c. similar capacity, skill, or talent of the grantee.

Section 53.4945-4(c)(1) of the Regulations provides that to secure approval, a private foundation must demonstrate that:

- (i) Its grant procedure includes an objective and nondiscriminatory selection process;
- (ii) Such procedure is reasonably calculated to result in performance by grantees of the activities that the grants are intended to finance; and
- (iii) The foundation plans to obtain reports to determine whether the grantees performed activities that the grants are intended to finance.

Revenue Procedure 76-47, 1976-2 C.B. 670, sets forth guidelines to be used in determining whether a grant made by a private foundation under an employer-related program to a child of an employee of the particular employer to which the program relates is a scholarship grant that meets the provisions of section 117(a) of the Code (as that section read before the Tax Reform Act of 1986). If a private foundation's program satisfies the seven conditions set forth in Sections 4.01 through 4.07 of Rev. Proc. 76-47 and meets the percentage test described in Section 4.08, the Service will assume the grants meet the provisions of section 117(a), as that section read before the Tax Reform Act of 1986.

You have agreed that procedures in awarding grants under your program will be in compliance with Sections 4.01 through 4.07 of Rev. Proc. 76-47 (without regard to the amendments to section 117(a) made by the Tax Reform Act of 1986). In particular, the selection of individual grant recipients will be made by a selection committee the members of which are totally independent and separate from the private foundation, the foundation's creator, and the relevant employer. The grants will not be used as a means of inducement to recruit employees nor will a grant be terminated if the employee leaves the employer. The recipient will not be restricted in a course of study that would be of particular benefit to the relevant employer or to the foundation.

Section 4.08 of Rev. Proc 76-47 provides a percentage test guideline. It states in the case of a program that awards grants to children of employees of a particular employer, the program meets the percentage test if either of the following tests are met: the number of grants awarded under that program in any year to such children does not exceed 25 percent of the number of employees' children who were eligible, were applicants for such grants, and were considered by the selection committee in selecting the recipients of grants in that year, or the number of grants awarded under the program in any year to such children does not exceed 10 percent of the number of employees' children who can be shown to be eligible for grants (whether or not they submitted an application) in that year.

You indicated that X may have a limited number of eligible employee children that might apply. As a result, the requirement limiting scholarships to 10 percent of the number of employees' children who can be shown to be eligible for grants (whether or not they submitted an application) could eliminate the granting of a scholarship in any given year. You anticipate approximately 5 to 10 applicants in the current year and only a slightly larger pool of 10 to 15 candidates in future years. Since the awarding of one scholarship will therefore most likely exceed the percentage thresholds of Rev. Proc 76-47, you may still qualify under facts and circumstances if the primary purpose of your program is to educate recipients in their individual capacities. Such relevant facts and circumstances to be considered may include: the likelihood that the program may be used for employee recruitment or to retain employees, the independence of the selection committee, standards for scholarship eligibility and selection, limitations or the lack of limitations on the recipient's choice of a course of study, the number of grants available, the number of children of employees who will be eligible for them, the percentage of eligible children of employees applying for the grants who normally receive grants under the program, and whether and how many grants are awarded to individuals who are not children of employees. Since you will maintain an independent selection committee, will not limit the recipient's choice of study, will grant only one new scholarship a year, and will base the scholarship on academic performance, character, and income level, it is concluded, based on facts and circumstances, that the primary purpose of your program is to educate recipients and not to compensate current employees.

This determination will remain in effect as long as the procedures in awarding grants under your program remain in compliance with Sections 4.01 through 4.08 of Rev. Proc. 76-47 (without regard to the amendments to section 117(a) made by the Tax Reform Act of 1986). If you enter into any other program covering the same individuals, the percentage test of Rev. Proc. 76-47 must be met in the aggregate.

Based on the information submitted and assuming your award programs will be conducted as proposed, with a view to providing objectivity and nondiscrimination in making the awards, we have determined that your procedures for granting the awards

comply with the requirements contained in section 4945(g)(1) of the Code and that awards granted in accordance with such procedures will not constitute "taxable expenditures" within the meaning of section 4945(d)(3).

In addition, we have determined that awards made under your procedures are 'scholarship or fellowship' grants within the meaning of section 117 of the Code, and are excludable from the gross income of the recipients subject to the limitations provided in section 117(b) of the Code, including to the extent that such grants are used for qualified tuition and related expenses within the meaning of section 117(b)(2) of the Code.

This determination is conditioned on the understanding that there will be no material change in the facts upon which it is based. It is further conditioned on the premise that no grants will be awarded to foundation managers, or members of the selection committee, or for a purpose that is inconsistent with the purpose described in section 170(c)(2)(B) of the Code.

The approval of your employer-related grant-making program is a one-time approval. This determination only covers the grant programs described above. Thus, approval shall apply to subsequent grant programs only as long as the standards and procedures under which they are conducted do not differ materially from those described in your request.

Any funds you distribute to individuals must be made on a true charitable basis in furtherance of the purposes for which you are organized. Therefore, you should maintain adequate records and histories so that any or all grant distributions can be substantiated upon request by the Internal Revenue Service.

This determination is directed only to the organization that requested it. Section 6110(k)(3) of the Code provides that it may not be used or cited as a precedent.

You must report any future changes in your grant making procedures. Please keep a copy of this letter in your permanent records.

If you have any questions, please contact the person whose name and telephone number are shown above.

Sincerely yours,

Holly O. Paz
Director, Exempt Organizations
Rulings and Agreements

Enclosures:
Notice 437
A copy of the redacted letter